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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/690,247

10/21/2003

James A. Duggan

1-5222

3417

27210

7590

11/22/2004

MACMILLAN, SOBANSKI & TODD, LLC  
ONE MARITIME PLAZA - FOURTH FLOOR  
720 WATER STREET  
TOLEDO, OH 43604

EXAMINER

BINDA, GREGORY JOHN

ART UNIT

PAPER NUMBER

3679

DATE MAILED: 11/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/690,247

Applicant(s)

DUGGAN, JAMES A.

Examiner

Greg Binda

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 13-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>20031021</u> . | 6) <input type="checkbox"/> Other: _____  |

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*Election/Restrictions*

1. Applicant's election without traverse of an elastomeric coupling (Group I) having bushings like that in Fig. 4 (Specie I) in the reply filed on November 24, 2004 is acknowledged.

2. Claims 13-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Election was made **without** traverse in the reply filed on November 24, 2004.

*Specification*

3. The disclosure is objected to because the summary and detailed description contradict each other. The summary at page 3, lines 7-9 states that the bushings of the disclosed invention rotate, but the detailed description at page 8, lines 16+ describes the bushings as being prevented from rotating.

*Claim Rejections - 35 USC § 112*

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 6 & 10-12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in

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the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

- a. Claim 6 recites that the first set of bushings rotate in one plane and the second set of bushings rotate in a different direction, but the specification teaches at page 8, lines 16+ that the bushings are prevented from rotation.
- b. Claims 10-12 each recite that each bushing includes "a substantially circular elastomeric body and web portions. However, the bushings 42, 42b are not described in the specification as having (or needing) such features.

*Claim Rejections - 35 USC § 103*

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brizzolesi US 3,668,891 in view of Martin, US 3,500,659.

- a. Claims 1, 6 & 10-12. In Figs. 1 & 2 Brizzolesi shows an elastomeric coupling for a rotatable shaft comprising: a driving yoke 5; a driven yoke 6; and an elastomeric body 4 having first and second sets of bushings 20 within the elastomeric body, each of the bushings having a opening; a plurality of fasteners 11 securing the driving yoke to the first set of bushings and securing the driven yoke to the second set of bushings; and a

plurality of tensile members 19 within the elastomeric body, the tensile members connecting the first and second bushings. Brizzolesi does not show the openings in the bushings 20 as threaded. In Fig. 2, Martin shows an elastomeric coupling having bushings 33 & 34 with threaded openings for fasteners 45 & 46. In col. 2, lines 55-62, Martin teaches providing each bushing with a threaded opening in order to provide a tight connection between a bushing and a fastener. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the elastomeric coupling of Brizzolesi by providing the bushings with threaded openings in order to provide tight connections between the bushings and fasteners.

b. Claim 2. In col. 1, line 69 Brizzolesi discloses that the tensile members comprise metal fibers.

c. Claim 3. Brizzolesi shows tensile members 19, but does not expressly disclose making the tensile members from organic fibers. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the tensile members from organic fibers, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

d. Claim 4. In Fig. 3 Brizzolesi shows that each of the first and second sets of bushings includes three equally spaced bushings.

e. Claim 5. In col. 2, lines 33 & 34 Brizzolesi discloses the yokes each include three equally spaced arms.

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f. Claim 7. In Fig. 2 Brizzolesi shows that each bushing 20 includes grooves (between parts 21) for the tensile members 19.

g. Claim 8. In Fig. 3 Brizzolesi shows the elastomeric body has a hollowed central portion.

h. Claim 9. In Fig. 3 Brizzolesi shows that each tensile member 19 is wrapped around a bushing from the first set of bushings and another bushing from the second set of bushings.

### *Conclusion*

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hutton shows that a elastomeric coupling with axially directed fasteners (Fig. 10) is a functional equivalent of an elastomeric coupling with radially directed fasteners (Fig. 9). Menosky, Landon, Rayfield and Black each show an elastomeric coupling with radially directed fasteners.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Binda whose telephone number is (703) 305-2869. The examiner can normally be reached on M-F 9:30 am to 7:00 pm with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (703) 308-2686. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Greg Binda  
Primary Examiner  
Art Unit 3679